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**Promotion and protection of the rights of children**

**Elimination of racism and racial discrimination, xenophobia and related intolerance**

**Right of peoples to self-determination**

**Promotion and protection of human rights**

**Security Council**
**Seventy-first year**

## Letter dated 28 April 2016 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Upon instruction from my Government, I am writing to draw your attention to gross violations of human rights and international humanitarian law committed by Azerbaijan in the course of its recent large-scale military aggression against Nagorno-Karabakh. I hereby transmit the interim report of the Nagorno-Karabakh Ombudsman on atrocities committed by Azerbaijani military forces against the civilian population of the Nagorno-Karabakh Republic and servicemen of the Nagorno-Karabakh Defence Army, from 2 to 5 April 2016 (see annex).[1]

The report documents in detail and selected images most shocking evidence of heinous atrocities committed by Azerbaijan. Disturbing as they are, those acts call for unequivocal condemnation by the international community and an urge to bring the perpetrators to justice.

I request that the present letter and its annex be circulated as a document of the General Assembly, under agenda items 34, 68, 70, 71, 72, and of the Security Council.

(*Signed*) Zohrab **Mnatsakanyan**
Ambassador
Permanent Representative

[1] The annex is being circulated in the language of submission only.

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# Annex to the letter dated 28 April 2016 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

**Nagorno Karabakh Republic (Artsakh Republic)**
**Human Rights Defender (Ombudsman)**

**Interim Public Report**

**On Atrocities Committed by Azerbaijani Military Forces Against the Civilian Population of the NKR and the Servicemen of the NKR Defence Army on 2-5April 2016**

Dear Colleagues,

On April 02, 2016 Azerbaijani military forces breached the Ceasefire Agreement of 1994 by a well-planned large-scale massive attack. The most serious and bloody military operation along the entire NKR-Azerbaijani line of contact for the last 20 years was initiated, that resulted in gross mass violations of human rights.

Today, the Interim Public Report of the NKR Ombudsman on Atrocities Committed by Azerbaijani Military Forces against the Civilian Population of the NKR and the Servicemen of the NKR Defence Army on April 2-5, 2016 has been published.

The Report is in English and it analyses the Azerbaijani hatred policy towards people of Armenian origin and its horrific consequences that violate all international human rights standards with certain examples of torture and humiliation. The Report provides international human rights organizations' objective assessments of Azerbaijan's policy of inciting hatred and violence towards people of Armenian ethnicity. It also presents hate speech in the Azerbaijani mass media and social networks. The Report also reveals Azerbaijani high officials and other public persons activities aimed at spreading hate speech and incitement to violence.

The Report presents the violations of international human rights law and international humanitarian law; cases of attacks on civilian population of NKR, cases of inhuman treatment, as well as cases of torture and mutilation of the NKR Defence Army Servicemen.

The Report will be sent to international human rights organizations, ombudsmen's international institutions and to respective foreign institutions.

I would like to thank the human rights NGOs of the Republic of Nagorno Karabakh for their assistance in drafting the Report, as well as all mass media representatives that have revealed in their publications the brutal cases of gross human rights violations.

***18+ Warning:***

*The Report contains pictures and descriptions of brutality and mutilation committed by Azerbaijani military forces. The report reflects pictures largely disseminated in the media.*

***Sincerely,***

***Yuri Hayrapetyan***
***NKR Human Rights Defender***

***Shushi, 21.04.2016***

# NAGORNO KARABAKH REPUBLIC (ARTSAKH REPUBLIC)

## HUMAN RIGHTS DEFENDER (OMBUDSMAN)

## INTERIM PUBLIC REPORT

## ATROCITIES COMMITTED BY AZERBAIJANI MILITARY FORCES AGAINST THE CIVILIAN POPULATION OF THE NAGORNO KARABAKH REPUBLIC AND SERVICEMEN OF THE NAGORNO KARABAKH DEFENCE ARMY ON 2-5 APRIL 2016

SHUSHI
APRIL 2016

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***18 + WARNING:***

***This interim public report contains pictures and descriptions of brutality and mutilation committed by Azerbaijani military forces. The report reflects pictures largely disseminated in the media.***

## Foreword

1. The People of Nagorno Karabakh are Europeans. However, citizens of the Nagorno Karabakh Republic (NKR) have to face challenges that are totally alien to the core European values and the human rights culture.

2. Following the collapse of the USSR, the former Soviet nation-state entity, known as the Nagorno Karabakh Autonomous Region, as well as the Armenian-inhabited Shahumian region, merged to form the Nagorno Karabakh Republic (NKR) (also called as Artsakh), with its capital Stepanakert.

3. On September 02, 1991 NKR declared its independence in full compliance with the fundamental norms and principles of international law. Ever since, the Republic has consistently pursued a continuous policy of maintaining peace and stability in the Southern Caucasus region. The NKR public authorities and people follow the international human rights standards and apply these standards in the country's legal framework, as well as their day-to-day life.

4. On December 10, 1991, prior to the collapse of the Soviet Union, a referendum was held in Nagorno Karabakh with the overwhelming majority of the participants (99.98%) voting in favour of full independence from Azerbaijan. On December 28, 1991 the first parliamentary elections of NKR were held, and the first NKR Government was formed, accordingly.

5. The NKR authorities commenced their functioning under the conditions of total blockade, war and aggression unleashed by Azerbaijan. The active warfare ended in May, 1994 by a Ceasefire Agreement. Despite the existence of the Agreement and the commitment of the parties to refrain from the use of force and resolve the issue through negotiations on setting legally binding mechanisms, Azerbaijan has been periodically and unilaterally breaching the Ceasefire Agreement. However, those breaches were until recently of a relatively low scale.

6. In the early morning hours of April 02, 2016 the Azerbaijani military forces breached the Ceasefire Agreement of 1994 again through a well-planned large-scale massive attack. The most serious and bloody military operation along the entire NKR-Azerbaijani line of contact for the last 20 years was initiated.

7. The Azerbaijani side deployed tanks, military helicopters, heavy artillery, rocket launchers, unmanned combat aerial vehicles (including *Smerch* 300mm MLRS, TOS-1 *Solntsepyok* multiple rocket launcher, IAI Harop drones, etc.), and other deadly weapons.

8. In blatant total disregard of obligations stemming from the applicable provisions of international humanitarian and human rights law, the Azerbaijani military forces targeted the peaceful population, especially children and the elderly, as well as civilian objects, including schools and kindergartens.

9. The most horrifying facts are the killings of peaceful civilians of Nagorno Karabakh through cruel and inhuman methods of execution and mutilation. Similar practices of humiliation were applied in relation to members of the NKR Defence Army. Moreover, some of the NKR soldiers were, along with other forms of dismemberment, also subjected to beheading.

10. As further detailed in this report, the acts of brutality were committed against peaceful civilians of the NKR solely due to their Armenian ethnicity. Such conduct is in line with Azerbaijani Government's consistent and purposeful policy of inciting hatred and racial discrimination against Armenians.

11. The ISIS-style atrocities, deeply rooted in Azerbaijan's state-supported propaganda of hatred and violence, gravely endanger the European human rights system as a whole. This situation threatens to escalate largely with unpredictable consequences if not effectively prevented and duly acted upon by the international community.

## I. Hatred and Discriminatory Policy towards People of Armenian Ethnicity and Its Horrific Consequences

### *A) Spreading Hate Speech and Incitement to Violence*

12. Discrimination against Armenians and violation of their rights by Azerbaijani authorities has deep historical roots. In the late 80's, with the revival of the Nagorno Karabakh movement, the anti-Armenian propaganda was intensified and led to pogroms, killings, and ethnic cleansings. Since then, statements of the Azerbaijani authorities have been constantly full of Armenophobic hatred and propaganda, starting at the highest levels of the governmental hierarchy. This is a public and aggressive policy aimed at increasing incitement to hatred and investing hostile thoughts or feelings towards ethnic Armenians.

13. This policy and offensive activities carried out by Azerbaijan are in violation of the principles of international law as enshrined in the UN Charter of 1945, the UN International Convention on the Elimination of all Forms of Racial Discrimination of 1965, the International Covenant on Civil and Political Rights of 1966, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States of 1970, the Helsinki Final Act of 1975, and other international documents. Thus, Article 4 of the International Convention on the Elimination of all Forms of Racial Discrimination calls States Parties to strongly condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention. Article 20, paragraph 2 of the International Covenant on Civil and Political Rights states that "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."

14. The United Nations Committee on the Elimination of Racial Discrimination (CERD) expressed its concern that, even though the Government of Azerbaijan maintained that ethnic

Armenians were not discriminated against, there were reports of such discrimination and that most Armenians in Azerbaijan concealed their ethnic origin to avoid discrimination[1].

15. The CERD also raised the following issues in its summary record on Azerbaijan: (i) the lack of awareness of everyday racial discrimination and the tendency to address only the most severe and extreme situations of racism and racial discrimination (UN 15 Mar. 2005, Para. 34); (ii) the common occurrence of hate speech and derogatory public statements against Armenians (ibid., Para 35); (iii) the lack of intervention on the problem of Armenians and other ethnic minorities losing their property to illegal occupants (ibid., Para. 39); (iv) the ambiguity as to what specific acts are included under the new provision for racial discrimination in the Criminal Code (ibid., Para. 43).

16. Racial discrimination against Armenians is also established by the Council of Europe Commission against Racism and Intolerance (ECRI). Thus, the first report on Azerbaijan of June 28 of 2002 *inter alia* indicates that Armenians living on the territory of Azerbaijan under the effective control of Azerbaijani authorities tend to shield their ethnic identity or, in any event, avoid exposing it publicly[2]. The report indicates that hate speech and derogatory public statements against Armenians take place routinely, and the mere attribution of Armenian ethnic origin to an ethnic Azerbaijani may be perceived as an insult, as illustrated by trials for slander and insult opened by public figures against persons who had publicly and falsely alleged their Armenian ancestry (ibid., Para. 52).

17. The report further emphasizes the discrimination against Armenians in different fields, including employment and the exercise of property rights. Judicial proceedings opened by Armenians trying to protect their property have reportedly not led to the restoration of their rights. According to the mentioned document, Armenians are reported to have suffered from harassment at schools and at the workplace and to have been refused pensions or renewal of permits to live in Baku by local governmental authorities (ibid., Para. 52).

[1] CERD/C/A/E/CO/4. 14 Apr. 2005, para. 10.
[2] Report on Azerbaijan, adopted on 28 June 2002, European Commission against Racism and Intolerance, para. 51.

18. In its report of 15 December 2006 on Azerbaijan, ECRI states that the situation concerning Armenians living in Azerbaijan has not improved at all[3]. The second ECRI Report states that Azerbaijani authorities have not demonstrated their will to tackle the problem of racism and racial discrimination against Armenians. According to the ECRI, Armenians experience discrimination in their daily lives, particularly in access of public services, e.g. some officials merely refuse to proceed with request from Armenians when they discover their ethnic origin. The report establishes that discrimination in some cases amounts to harassment which prevents the persons concerned from exercising their basic rights, e.g. the right to pension allowance or the right to work (ibid., Para. 107).

19. As a consequence of the mentioned discriminatory attitude and inflammatory statements against Armenians many of Armenians keep a low profile in Azerbaijan, trying as much as possible to avoid drawing attention to them (ibid., Para. 111).

20. As further mentioned in the reports of ECRI on Azerbaijan, the discriminatory attitude and climate affects also Azerbaijani individuals and NGOs assisting Armenians in exercising their basic rights. Those individuals and NGOs keep receiving anonymous threats, are becoming victims of defamation campaigns in the media and are harassed by authorities. Azerbaijani individuals travelling to Armenia are subjected to threats, harassment and attacks on their goods, persons on the grounds that they "betray their country" (ibid., Para. 112).

21. The concerns and allegations of racial discrimination against Armenians are again reiterated by ECRI in its recent report on Azerbaijan adopted on March 23, 2011. In that report, ECRI states that the negative climate against Armenians continues, and the Azerbaijani authorities have not taken any step to combat the racial discrimination against Armenians.

22. Particularly, in this report ECRI states that the Commission is still deeply concerned about the fact that the constant negative official and media discourse helps to sustain a negative climate of opinion regarding people of Armenian ethnicity. This prejudice is so ingrained that describing someone as an Armenian in the media is considered by some people - including by certain Armenians themselves - to qualify as an insult that justifies initiating

[3] Report on Azerbaijan, adopted on 15 December 2006, European Commission against Racism and Intolerance, para. 107

judicial proceedings against the persons making such statements. Further, ECRI underlines the seriousness of this situation, where it seems that persons belonging to the group discriminated against in this way may themselves have interiorized this discriminatory attitude[4].

23. All the mentioned reports evidence the heavy racial discrimination against Armenians in general. The negative climate against Armenians is increasing within Azerbaijani society due to inflammatory and hate speeches and statements made by the media, different individuals, and high-ranking officials.

24. The fact of discriminatory policy and racism by Azerbaijan towards Armenians has been pointed out also by the Advisory Committee on the Council of Europe Framework Convention for the Protection of National Minorities. In its opinions on Azerbaijan the Advisory Committee pointed out the incidents of "hostility and discrimination" against Armenians, existence of anti-Armenian sentiments in Azerbaijan and recommended Azerbaijan to take steps for eliminating the discriminatory attitude towards Armenians[5]. Besides, the Advisory Committee mentioned that persons belonging to some national minorities, and especially those belonging to the Armenian minority, continue to face widespread discrimination in various fields and hostility, often triggered by the media. Access of these persons to effective remedies, including legal remedies, against discrimination is very limited as there seem to be very limited awareness on discrimination-related issues in the judiciary and in the police, but also in the population at large. The legislation against discrimination does not seem to be applied and the case-law related to discrimination on grounds of ethnic origin is non-existent[6]. Despite this absence of case-law and reported claims, the Advisory Committee has, however, collected information from various sources indicating that persons belonging to the Armenian minority are facing widespread discriminations in various spheres. These include obstacles in access to public employment, housing, public services, payment of pensions and other social benefits and difficulties in restitution of properties. The Advisory Committee is deeply concerned by

[4] Report on Azerbaijan, adopted on 23 March 2011, European Commission against Racism and Intolerance, Para. 99.

[5] Advisory Committee on the Council of Europe Framework Convention for the Protection of National Minorities, Opinion on Azerbaijan (adopted on 22 May 2003), ACFC/INF/OP/I(2004)001.

[6] Advisory Committee on the Framework Convention for the Protection of National Minorities, Second Opinion on Azerbaijan (adopted on 9 November 2007), ACFC/OP/II(2007)007, Para. 16.

statements made during its visit by representatives of the authorities. They have either denied that ethnic Armenians face discrimination problems in Azerbaijan, or attempted to justify discriminations against them by the absence of a solution to the conflict of Nagorno Karabakh[7].

25. The analysis of the above-mentioned international standards and reports shows that international organizations clearly emphasize the existence of extreme racism, animosity, and hatred towards ethnic Armenians, as well as the persistence of an anti-Armenian atmosphere.

### *B) Hate Speech in the Azerbaijani Mass Media and Social Networks*

26. The monitoring of the Azerbaijani mass media and social networks reveals that they are full of hate speech, violent publications, and comments. To be specific, the Internet media are full of articles, statements, stories, news, and other materials the sole aim of which is to spread hatred and animosity against Armenians in general. This sustains and increases the negative climate in society towards Armenians, by constantly inciting hatred against them.

27. For example, an article recently published in the online newspaper *vesti.az*, dedicated to the NKR Human Rights Defender (Ombudsman) statements on atrocities committed by the Azerbaijani military forces, openly scoffs at the Ombudsman's activities, as well as at the fact that NKR may even have an Ombudsman. This article is full of extreme hate speech by using words like "an Armenian liar", "poor Yurik", etc.

28. Furthermore, the same media article calls Artsakh a large psychiatric hospital full of patients[8]. According to another recent media article, "Armenian expansionism is as rotten as Kurginyan's[9] teeth"[10].

29. Apart from publications of analytical and information nature, cultural life is full of racist speech and anti-Armenian comments. On April 15, 2016, a case of deep anti-Armenian discrimination was registered during one of the TV shows broadcast in Azerbaijan by channel TV8. Namely, a female Turkish singer was harshly criticized for the mere fact that, in her colorful dress, the Azerbaijani social network users found colors of Armenian flag. This part of

[7] Ibid., Para. 39.
[8] http://vesti.az/news/288540.
[9] Mr. Sergey Kurginyan is a Russian political scientist and public figure of Armenian origin.
[10] http://news.day.az/politics/767794.html.

her dress was highlighted and largely discussed in social media with abundant hatred and violent comments. However, the ludicrous fact is that, in reality, the colors of the singer's dress did not contain colors of the Armenian flag (the sequence of colours is different). Nevertheless, this example shows how deep the roots of Armenophobia are: even an approximate or remote resemblance with anything Armenian provokes harshly violent and hatred calls[11].

30. Given the fact that, in Azerbaijan, the media and the Internet are heavily controlled by the Government, it is evident that the hatred and racism expressed in the media are carried out, as a minimum, with the knowledge and complacency of the relevant governmental authorities.

31. This fact is confirmed by ECRI reports on Azerbaijan, which provide that the situation regarding the media has scarcely changed since its previous report. It continues to be reported that the media are lacking in objectivity and help to spread a negative image of certain ethnic/national or religious minorities, in particular through the way they report on the conflict over Nagorno Karabakh (Para 56)[12].

32. Those who object to state led anti-Armenian approach, including free media representatives and human rights defenders, are prosecuted and sent to prisons. All these people know that they will find themselves in dilapidated prisons and other closed institutions with inhuman and brutal conditions[13] even for one positive word about Armenians.

33. The mentioned facts have been further confirmed by international human rights bodies. For example, the European Court of Human Rights judgment in the case of Fatullaev v. Azerbaijan establishes that Eynulla Fatullaev (the applicant) visited Nagorno Karabakh in his capacity of a journalist. After returning from NKR, E. Fatullayev, published an article where he discussed an assault on the town of Khojaly in the course of the war in Nagorno Karabakh. A year after the publication of the article, postings about the killing of Khojaly inhabitants by

[11] https://www.youtube.com/watch?v=PnByjcCntqg; https://www.youtube.com/watch?v=IQTU64HQx4M.
[12] https://www.coe.int/t/dghl/monitoring/ecri/country-by-country/azerbaijan/AZE-CbC-IV-2011-019-ENG.pdf.
[13] Azerbaijan is a country of torture, degrading treatment and inhuman punishment; although this country does everything to hide their black pages from international society. The very relevant examples are the reports of the Council of Europe Committee for the Prevention of Torture (CPT) that are being kept confidential because Azeri authorities do not give their consent for their publication (http://www.cpt.coe.int/en/states/aze.htm).

Azerbaijani soldiers were made on the "Azeri TriColor" website made from a forum account under the username Eynulla Fatullayev. As a result of these activities, he was prosecuted and convicited in Azerbaijan. Besides, a civil was brought against him. The European Court of Human Rights established a violation of Article 10 of the European Convention on Human Rights[14].

34. Examples of internationally-recognized facts prove that this policy is aimed at creating a closed society with no possibility of criticism or any alternative way of thinking, where the media are fully controlled by the Government. The results of this purposeful policy are already very clear, and it will only continue to escalate and become increasingly more dangerous.

### *C) Hate Speech and Incitement to Violence by Azerbaijani High-Ranking Officials and Other Public Persons*

35. The consistent policy of spreading hatred and violence against Armenians has been implemented for a long period of time already. This is strongly supported by the political leadership of Azerbaijan. High-ranking officials spice up their speeches and activities with furious anti-Armenian propaganda in society, especially through the media and the Internet.

36. A very explicit example is the appalling case of a member of the Azerbaijani army, Ramil Safarov, killing Gurgen Margaryan, a representative of the Armenian military, in Hungary in 2004. In January 2004 representatives of the two countries' military forces arrived in Budapest, Hungary to participate in a three-month English language course organized within the framework of the NATO-sponsored "Partnership for Peace" programme. The course included two participants from each of the former Soviet Socialist Republics, including two officers from the Azerbaijani army. The participants were all accommodated on the campus of the Hungarian University of National Defence[15].

37. At around 5 a.m. on 19 February 2004, Ramil Safarov murdered Gurgen Margaryan while he was asleep by decapitating him with sixteen blows of an axe. R. Safarov then tried to

[14] Fatullaev v. Azerbaijan, Judgment of October 4, 2010, no. 40984/07 (http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-98401).
[15] http://hudoc.echr.coe.int/eng#{"fulltext":["makuchyan"],"documentcollectionid2":["COMMUNICATEDCASES"],"itemid":["001-160675"]}.

break down the door of another Armenian military officer Hayk Makuchyan's room yelling "Open the door, you Armenian! We will cut the throats of all of you!" He was ultimately stopped by the police who had meanwhile arrived at the scene. In subsequent criminal proceedings, Ramil Safarov admitted that he had murdered Gurgen Margaryan only on the ground of his Armenian origin and he showed no remorse for the committed crimes. On 13 April 2006 the Budapest City Court found Ramil Safarov guilty of premeditated murder of Gurgen Margaryan and preparation for murder of another Armenian soldier, Hayk Makuchyan. R.Safarov was sentenced to life imprisonment, with a possibility of conditional release after 30 years[16].

38. However, on August 31, 2012 Ramil Safarov was transferred to Azerbaijan. R. Safarov was immediately granted a presidential pardon, set free, promoted to the rank of a major during the course of a public ceremony, awarded eight years of salary arrears, and given a flat. He was declared a National Hero of Azerbaijan by virtue of the fact that he killed a person of Armenian origin.

39. This fact was criticized by the international community and perceived as a dangerous step that reflects hatred and discriminatory policy of the Azerbaijani leadership towards Armenians. For example, according to the media article of September 04, 2012, published in *The New York Times*, "Mr. Safarov, who was a boy during the war with Armenia, embodies the hatred that has pooled deeply in the public as leaders have sat through rounds of faltering negotiations"[17]. On September 05, 2012 an article published by *Aljazeera.com* under "The axe murderer who became a Facebook hero" heading states that "The Safarov case serves as a warning to the West. (...) The Safarov case shows that the open internet is also a useful venue for the spread of nationalism rooted in bigotry, vengeance and pain"[18].

40. In contrast, the same fact was wholeheartedly welcomed by all parts of Azerbaijani society and was largely spread through the mass media. It was agitated that killing any person of Armenian nationality is an honorable murder; an example of patriotism for the youth.

[16] Ibid.
[17] http://www.nytimes.com/2012/09/05/world/europe/pardon-reignites-azerbaijan-armenia-tensions.html?_r=0.
[18] http://www.aljazeera.com/indepth/opinion/2012/09/201293953565974.html.

41. The most worrying thing is that a current member of Azerbaijani delegation to the Parliamentary Assembly of the Council of Europe (PACE), Ganira Pashaeva (a member of the Azerbajani Parliament of that period) declared: "Ramil Safarov has been released! Congratulations, Azerbaijani people! We are grateful to the President of the country for returning R.Safarov to Azerbaijan and for pardoning him"[19].

42. Another disturbing fact is that the current Ombudsman of Azerbaijan Elmira Suleymanova declared that Ramil Safarov should become an exemplary model of patriotism for the Azerbaijani youth[20]. She also mentioned that it has become yet another proof of humanism of President Ilham Aliyev, of his care for Azerbaijani citizens[21].

43. Abulfaz Garayev, the Minister of Culture and Tourism of Azerbaijan stated: "In our opinion it is a fair decision, which undoubtedly makes our enemies worry. However, we don't care, for the aim of each Azerbaijani is to fight against his enemies, wherever he is"[22].

44. Moreover, Ramil Safarov was present at the funerals of Azerbaijani soldiers who died as a result of Azerbaijani aggression of April 2-5, 2016 and this was largely demonstrated as a merit for all Azerbaijani people[23].

45. Another infamous example of a consistent state-supported policy aimed at incitement to hatred and violence against Armenians is reflected in the Human Rights Watch reports on Azerbaijan and in international mass media publications. According to the Human Rights Watch report, Akram Aylisli, a member of the Union of Writers of Azerbaijan since the Soviet era, became a target of a smear campaign after the publication of a novel he wrote that contained a critical analysis of Azerbaijan's modern history and angered high-level government officials. The novel, Stone Dreams, included a description of violence by ethnic Azeris against Armenians during the 1920s and at the end of the Soviet era when the two countries engaged in armed conflict. Against the background of the unresolved nature of the conflict, Aylisli's

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[19] *SolomNews*. 31.08.2012 http://www.peeep.us/cc1ed01d.
[20] Zerkalo newspaper, 28.02.2004 (https://ru.wikipedia.org/wiki/%D0%A1%D0%B0%D1%84%D0%B0%D1%80%D0%BE%D0%B2,_%D0%A0%D0%B0%D0%BC%D0%B8%D0%BB%D1%8C_%D0%A1%D0%B0%D1%85%D0%B8%D0%B1_%D0%BE%D0%B3%D0%BB%D1%8B).
[21] *Inews.az*, 03.09.2012 http://www.peeep.us/2736551d.
[22] Inews.az. 06.09.2012 http://www.peeep.us/1ef20a22.
[23] http://armedia.am/eng/news/32548/ramil-safarov-not-on-the-front-line-but-at-a-funeral.html.

sympathetic portrayal of Armenians and condemnation of violence against them caused uproar in Azerbaijan. Hateful rhetoric and threats against Aylisli started at the end of January 2013, culminating in a February 11 public statement by the head of a pro-government political party promising 10,000 manat (US$12,700) for Aylisli's ear[24]. On January 29 officials from Azerbaijan's ruling party publicly called on Aylisli to withdraw the novel and ask for the nation's forgiveness. Aylisli told Human Rights Watch that two days later, about 70 people gathered in front of his home, shouting "Akram, leave the country now" and, "Shame on you," and burned effigies of the author. Besides, In a speech critical of Aylisli's book, a high-level official, the Head of Azerbaijani Presidential Administration's Social and Political Department Ali Hasanov said, "We, as the Azerbaijani people, must express public hatred toward these [Armenian] people."[25]. This call for public hatred was widely spread in the international media and was qualified as a call that should be criminally prosecuted.

46. As mentioned by the BBC, President Ilham Aliyev himself signed the decree stripping Aylisli of his national awards and monthly literary stipend. Ruling party parliamentarians demanded he leave the country or that his DNA be tested to see if he was really Azeri, and not in fact Armenian[26].

47. The fact that hatred towards Armenians is spread from the very highest level of Azerbaijani leadership is also confirmed by Ilham Aliev's words stating that "our main enemies are Armenians of the world"[27]. He also declared that "(...) Armenia as a country is of no value. It is actually a colony, an outpost run from abroad, a territory artificially created on ancient Azerbaijani lands"[28]. During the recent TV debate of April 12, 2016, broadcasted by *France24* and dedicated to the events of April 2-5, 2016 the Azerbaijani ambassador to France declared

[24] "Azerbaijan: Stop Harassing Writer," Human Rights Watch news release, February 12, 2013, http://www.hrw.org/news/2013/02/12/azerbaijan-stop-harassing-writer.
[25] Tightening the screws. Azerbaijan's crackdown on Civil Society and Dissent. Human Rights Watch report, https://www.hrw.org/report/2013/09/01/tightening-screws/azerbaijans-crackdown-civil-society-and-dissent; http://en.trend.az/azerbaijan/politics/2116003.html
[26] http://www.bbc.com/news/world-europe-21459091.
[27] http://en.president.az/articles/4400.
[28] http://www.reuters.com/article/us-azerbaijan-armenia-idUSBRE8AJ1DC20121120.

that his interlocutor, the leader of Armenian community of France is enemy, since he is Armenian[29].

48. All these publicly expressed calls and opinions of Azerbaijani high officials violate Article 4 (c) of the UN International Convention on the Elimination of all Forms of Racial Discrimination. This provision provides that state parties shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

49. Under the terms of article 4 (c) regarding public authorities or public institutions, racist expressions emanating from such authorities or institutions are regarded by CERD as of particular concern, especially statements attributed to high-ranking officials. Namely, according to the CERD General Recommendation No 35 on Combating Racist Hate Speech. "Under the terms of article 4 (c) regarding public authorities or public institutions, racist expressions emanating from such authorities or institutions are regarded by the Committee as of particular concern, especially statements attributed to high-ranking officials. Without prejudice to the application of the offences in subparagraphs (a) and (b) of article 4, which apply to public officials as well as to all others, the "immediate and positive measures" referred to in the chapeau may additionally include measures of a disciplinary nature, such as removal from office, where appropriate, as well as effective remedies for victims"[30].

[29] www.france24.com.
[30] http://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIntro.aspx.

## II. Grave Violations of International Human Rights Law and Humanitarian Law by the Azerbaijani Forces

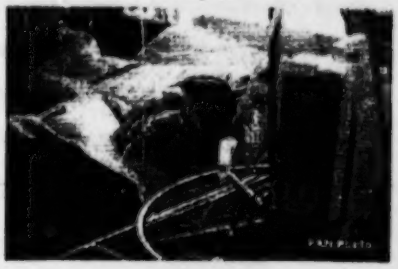
### *A) Killing and Wounding Children as a Result of Shelling Civilian Settlements, including Schools and Homes*

50. In the early morning of April 02, 2016, *i.e.* at the very beginning of the hostility in Nagorno Karabakh, Vagharshak Grigoryan, a 12-year-old student of the Martuni secondary school (picture "a") was killed as a result of targeted shelling of the school. Besides, four other children, Vagharshak Grigoryan's 11-years old twin brothers G.G. (picture "b") and Gr.G., as well as their two schoolmates, V.A. (picture "c", 12 year old), G.H. (13-years old), were heavily wounded. Two of these children are still at the Central Hospital of Stepanakert. The shelling took place at around 8.30 a.m.; the exact time when classes commence and children head to schools. The horrifying fact is that the shelling of the secondary school was carried out with an indiscriminate deadly weapon - the MM-21 *Grad* multiple rockets launcher.

*a) Vagharshak Grigoryan, 12 years old, killed by the Azerbaijani military*

*b) wounded Gevorg Grigoryan, 11 years old*

*c) wounded Vardan Andreasyan, 12 years old*



51. Because of the rocket bombings, kindergartens and schools stopped operating. Children, as well as their families still live under constant fear for their lives.

52. The basic norms of international humanitarian law state that in the conduct of military operations, constant care must be taken to spare the civilian population, civilians and civilian objects. All feasible precautions must be undertaken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.

53. Moreover, numerous States have expressed the view that military commanders and others responsible for planning, deciding upon or executing attacks necessarily have to reach decisions on the basis of their assessment of the information from all sources which is available to them at the relevant time. At the same time, many military manuals stress that the commander must obtain the best possible intelligence, including information on concentrations of civilian persons, important civilian objects, specifically protected objects, the natural environment and the civilian environment of military objectives

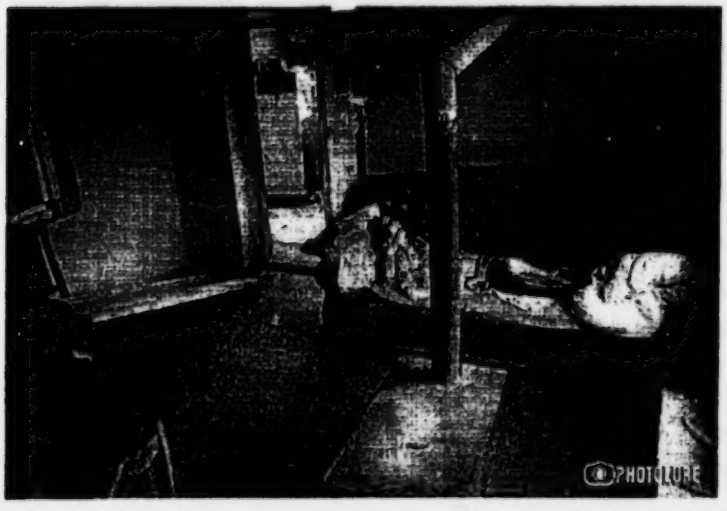
54. Apart from the described violent acts, the Azerbaijani military forces also committed acts of brutality against the elderly and infirm people. The case is about the barbaric methods of murder used by the Azerbaijani forces in the Tallish village of the Martakert region. This is a bordering village that village was heavily attacked in the early morning hours of April 02, 2016 when people were still asleep.

55. Within very few hours, Azerbaijani soldiers committed terrific brutalities. One of the vivid examples is the killing of an elderly couple, Valerik Khalapyan and Razmela Vardanyan (picture "d") and the complete destruction of their house in Tallish. They were shot in their home and

were tortured, with their ears cut off (picture "f"). Azerbaijani soldiers also murdered Valerik Khalapyan's 92-year-old mother, Marousya Khalapyan (picture "e"). All the killed persons were aged and infirm. As it is very clear from the pictures below, Azeri soldiers, acting with motivation of hatred, destroyed everything in the Khalapyan family house. The family lived with their children and grandchildren who barely managed to escape before the Azerbaijani soldiers attacked the house (picture "f" – see the child backpack, the teddy bear, and the baby clothes).

*d) Valerik Khalapyan and Razmela Vardanyan, killed in their house*

*e) Killed Marousya Khalapyan, a 92-year-old woman*



*f) Valerik Kholopyan (with his ears cut off) and a room in his house, inhumanly destroyed*

56. Apart from the aforementioned killings, the targeted shelling killed or wounded over two dozen civilians from Martakert, Martuni, Askeran, and other settlements (G.A., Ts.A., K.A., Z.A., including minors K.O., K.M., V.A., G.G. and others).

57. As media reports suggest, on April 06, 2016, an ambulance vehicle was shot at and destroyed by an Azerbaijani tank. The ambulance vehicle was going to transport the bodies of killed NKR servicemen from the Line of Contact[31].

58. Starting from the very first day of the atrocities, the Azerbaijani armed forces opened fire at the Martakert region, shelling residential houses and buildings. The local population was under constant risk of bombardment. Even on April 03, 2016, after the Azerbaijani Defence Ministry said that it had stopped the hostilities, the shelling intensively continued[32]. The announcement of the Azeri official was not confirmed by the Ministry of Defence of the Nagorno Karabakh Republic. Moreover, it was informed that the Azeri Armed Forces used Grad multiple rocket launchers and 152mm artillery guns to shell the town of Martakert. After

[31] http://news.am/eng/news/320969.html.
[32] https://rbth.com/news/2016/04/03/azerbaijan-intensively-shelling-karabakh-town-of-martakert_581507

declaring a unilateral ceasefire, the Azerbaijani forces continued the bombarding[33]. According to reliable media publications, Azerbaijan *"concentrated sizeable forces"* in various parts of the frontline. As a consequence:

- the Martakert town was reportedly hit by 25 shells[34]
- several residential houses were damaged in the Martakert region
- the gas pipeline was damaged
- residents of the Mataghis village were evacuated
- the mayor of the Mataghis village Z.A. was wounded as a result of the offensive[35]
- several hundred residents of Artsakh were evacuated from the war zone and took refuge in various hotels in the village of Vank[36].

59. It must be highlighted that the IV Geneva Convention of 1949 (Azerbaijan is a State Party thereto) establishes that the wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect (Article 16 (I)). The same protection is provided by Article 17 of the same Convention.

60. According to Article 27 of the said Convention, protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity. Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

61. Article 32 of the Convention specifies that the High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition

[33] http://www.cbc.ca/news/world/azerbaijan-cease-fire-1.3518700
[34] https://www.rt.com/news/336262-jounalists-shelled-baku-ceasefire/
[35] http://news.am/eng/news/320162.html
[36] http://hetq.am/eng/news/67120/many-artsakh-evacuees-now-sheltered-in-vank-village-hotels.html

applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.

62. Article 147 of the IV Geneva Convention establishes that grave breaches to which the mentioned Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

### *B) Torture, Dismemberment and Mutilation of the NKR Defence Army Servicemen's Bodies*

63. During the escalation of the armed conflict in the Nagorno Karabakh Republic in April 2016, in the course of Azerbaijani military operations, three NKR soldiers, Hayk Toroyan, Kyaram Sloyan, and Hrant Gharibyan were killed and beheaded after the overwhelming troops of the Azeri Special Forces attacked their positions near the village of Tallish, in the north of Artsakh. In accordance with various media reports, after the decapitation, Kyaram Sloyan's head was taken by the retreated Azerbaijani troops. Later, pictures of Azerbaijani soldiers holding Sloyan's decapitated head surfaced in social networks (in particular: *VKontakte*). Soon thereafter, a video emerged in the internet, showing an Azerbaijani holding the severed head of Sloyan to the public. In the relevant screenshot, a serviceman in a uniform holding the head of Kyaram Sloyan is seen, taking photos with Sloyan's head, holding by the ears, as well as a hand of a person, most probably without uniform, holding the head (pictures "h"). In

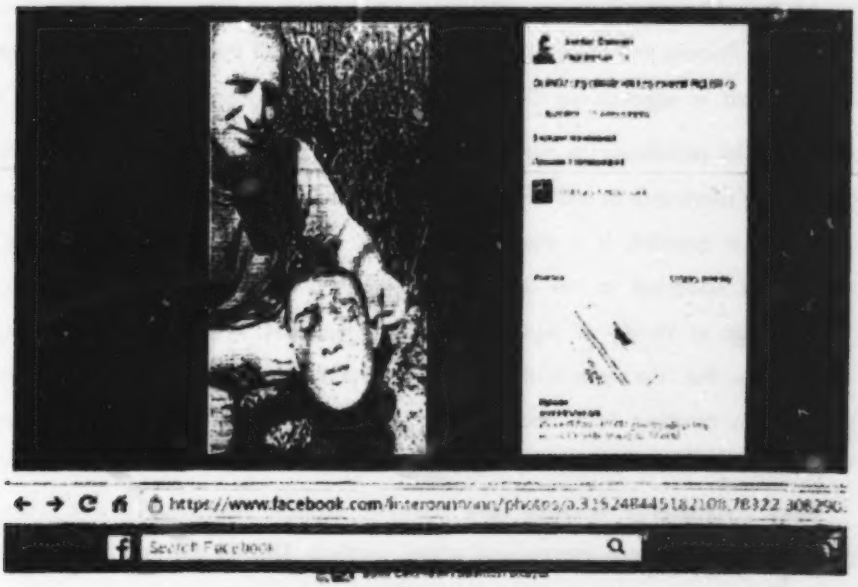
accordance with the media reports, after taking photos with Sloyan's head, it was transferred to the nearest village and shown to the local residents[37] (picture "g").

*g) Beheaded head of the NKR Defence Army member Kyoram Sloyan*

*and its demonstration to the public*

[37] http://ezidipress.com/ru/?p=4851.

*h) An Azerbaijani illustrates the head of NKR soldier Kyaram Sloyan as his trophy, and hatred comments of Azerbaijani people in the social media (Facebook)*



64. On April 10, 2016, Azerbaijan returned the bodies of 18 soldiers of the Nagorno Karabakh Defence Army. All of them without exception bore signs of torture and mutilation, which was registered by the NKR State Commission on Prisoners of War, Hostages and Missing Persons at the presence of the representatives of the International Committee of the Red Cross, as stated on the NKR Ministry of Foreign Affairs official website[38].

65. The prohibition of mutilation or other maltreatment of dead bodies during armed conflicts constitutes an established norm of customary international law, irrespective of how a conflict is qualified. It is stipulated in various international documents including the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts. Article 34(1) thereof stipulates in particular that "the remains of persons who have died for reasons related to occupation or in detention resulting from occupation or hostilities ... shall be respected". Furthermore, pursuant to Article 8(2)(b)(xxi) and (c)(ii) of the 1998 Statute of the International Criminal Court, "committing outrages upon personal dignity" constitutes a war crime in both international and non-international armed conflicts. Despite the fact that the Republic of Azerbaijan isn't a State Party to those international agreements, the very substance of the mentioned provision has customary nature. For a better demonstration of the customary nature of the mentioned provision, one may refer to the international documents stated below.

66. Article 19 of the Laws of War on Land adopted by the Institute of International Law in 1880 (the Oxford Manual) provides: "It is forbidden to ... mutilate the dead lying on the field of battle."

67. In the UN Commission on Human Rights resolution on human rights and forensic science adopted in 2005 "the importance of dignified handling of human remains, including their proper management and disposal, as well as of respect for the needs of families" was underlined.

68. Mutilation or other maltreatment of dead bodies during armed conflict is prohibited under the military manuals of more than twenty different countries, including Australia, Canada, Greece, Israel, Netherlands, Spain, USA etc. It is considered a criminal offence in the

[38] http://www.nkr.am/en/news/2016-04-11/806/.

national legislation of countries representing different legal systems from all the continents, including Australia, Bangladesh, Morocco, Ethiopia, Somalia, USA, Venezuela, Italy, Spain, etc[39].

69. Accordingly, the facts of beheading Hayk Toroyan, Kyaram Sloyan, and Hrant Gharibyan by the Azerbaijani troops, as well as the torturing and mutilation of 18 NKR army members constitute grave breaches of customary international law.

[39] https://www.icrc.org/customary-ihl/eng/docs/v2_rul_rule113.

## III. Public Praise for Acts of Brutality Committed as Part of the Azerbaijani Military Aggression on April 2-5, 2016

70. The Azerbaijan's military aggression against the Nagorno Karabakh Republic and its peaceful population of April 2-5, 2016 was accompanied by mutilation and other forms of maltreatment of dead bodies, as mentioned above. These acts have been explicitly encouraged by the Azerbaijani authorities. There are cases when people (both civilian and soldiers) were tortured while alive through beheading, dismemberment and other acts of hostility and brutality (ears and arms cut, etc.). These atrocities are grave violation of all universal human rights, including the right to life, the right to be free from torture and inhuman or degrading treatment, the right to privacy, etc.

71. The horrifying example is the case of Kyaram Sloyan who was beheaded, after which his head was taken by the Azerbaijani military forces and was extensively demonstrated to the soldiers and to the Azerbaijani general public. The head of the soldier was perceived as a criterion of privilege over Armenians. This case was very widely disseminated through the social media and wholeheartedly welcomed by the Azerbaijani social media users[40] (see above, pictures "g" and "h"). Later, it transpired that Mr. Kyaram Sloyan, the beheaded soldier, was a representative of the Yezidi nation.

72. All of the described brutalities are demonstrated to the public as the Azerbaijani side's merit and achievement, and as evidence of their "victory." Moreover, it is clear in the videos and pictures uploaded by Azerbaijanis themselves that the beheadings and demonstration of brutalities to the wider public are perceived as a symbol of encouragement of hatred and aggression towards Armenians. All these atrocities were also widely spread through the social media and even official websites, as well as other forms of mass dissemination. Monitoring of the aforementioned media sources reveals comments inciting hatred and violence against Armenians, which were made under the postings and shared by thousands of Azerbaijanis.

73. Thus, the Azerbaijani authorities and people use the Internet with the purpose of spreading the evil of hatred and killings without any chance of tolerance.

[40] See also the uploaded video at:
http://vk.com/azeribayсan?z=video163337509_456239017%2Fa1e09b5bc8f4f815d7d%2Fpl_post_23232544_2312877.

74. The events of April 2-5 were followed by demonstrations organized by the Azerbaijani communities in several European countries: all of them were full of hate speech and incitement to violence. For example, on April 09, 2016, a number of organizations representing the Azerbaijani-Turkish communities in Sweden organized a demonstration in the Sergels Torg square of Stockholm. In the video footage of the demonstration, which was made available to the public, one of the organizers of the demonstration, Barbaros Leylani, made anti-Armenian statements containing clear expressions of incitement to violence, hatred and racial discrimination, which received overwhelming support from the participants of the demonstration. Participants of the demonstration chanted slogans such as "Death for the Armenian dogs"[41]. This was also broadcast by Swedish TV channels[42].

75. On April 16, 2016, Swedish Prime Minister Stefan Löfven reacted to the above-mentioned anti-Armenian statements: "In Sweden, it is completely unacceptable to incite against other groups, be it religious, ethnic or political," said Löfven in his statement. "Here, all political activities should be conducted democratically and with respect to the values of equality and rights. These principles are not negotiable."

76. Alice Bah Kuhnke, the Minister for Culture and Democracy of Sweden, also reacted to the incitement to violence by Barbaros Leylani: "What happened on Saturday [April 9] and the disgusting statements made are of course unacceptable. They made me feel bad," said Bah Kuhnke[43].

77. Further deep concern is caused by the fact that, after the above-mentioned atrocities against the NKR peaceful population and members of NKR Defence Army, the Azerbaijani public started demonstrations and rallies in Baku, demanding to continue the military campaign in Nagorno Karabakh. The demonstrations were accompanied with hate speech and calls for further military offensive operations. This evidence shows the effects of the systematic Azerbaijani state-supported hatred policy. Moreover, during all these demonstrations, the

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[41] http://www.journalreview.com/news/article_4d42f994-236c-5349-9f99-05c012575a21.html; http://www.usnews.com/news/world/articles/2016-04-11/insulting-remarks-about-armenia-forces-resignation-in-sweden.

[42] http://www.tv4.se/nyheterna/klipp/nyheterna-1900-3344172?utm_campaign=tv4.se-framework&utm_content=http%3A%2F%2Fwww.tv4.se%2Fnyheterna%2Fklipp%2Fnyheterna-1900-3344172&utm_medium=facebook-like&utm_source=www.tv4.se.

[43] http://armenpress.am/eng/news/843813/.

Azerbaijani people were demonstrating symbolic signs of the organization called "Grey Wolves"[44], which are easily recognizable in all videos[45].

78. The Azerbaijani authorities failed to prevent the mentioned rallies and demonstrations, despite their positive obligation under international human rights instruments, including first of all the UN International Convention on the Elimination of All Forms of Racial Discrimination of 1965, the obligation to prohibit and punish those forms of public incitement to hate speech, hostile and violent calls[46].

79. All of the described facts and activities carried out and organized by the Azerbaijani authorities clearly constitute grave violations of the international human rights protection system endorsed by the civilized world. This purposeful policy implies endless violence and systemic hatred towards Armenians who live in Nagorno Karabakh. Therefore, these violations require proper actions from the respective international human rights organizations, as a matter of concern for the whole international community.

[44] This organization is forbidden in many countries and considered a terrorist organization. Members of "Grey Wolves" are known for their brutalities and barbaric approach towards civilians and they are very active in Azerbaijan. The roots of this organization go to famous Turkish terrorist organization "Ergnekon". Moreover, it is well known that in their ideology and activities, members of "Grey Wolves" are hostile to Armenians, Greeks and Christians overall (https://en.wikipedia.org/wiki/Grey_Wolves_(organization)).

[45] https://www.youtube.com/watch?v=o0_HERyiCrM.

[46] http://indicators.ohchr.org/.

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**Question of Cyprus**

**Oceans and the law of the sea:**
**oceans and the law of the sea**

## Letter dated 28 April 2016 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

With reference to the letter from the Greek Cypriot representative dated 7 April 2016 (A/70/825-S/2016/329), I would like to bring to your attention the following considerations.

First, I would like to emphasize that, as the country with the longest continental coastline in the eastern Mediterranean, Turkey has registered with the United Nations (Turkish notes verbales No. 2004/Turkuno DT/4739, dated 2 March 2004, and No. 2013/14136816/22273, dated 12 March 2013) that it has ipso facto and ab initio legal and sovereign rights in the maritime areas of the eastern Mediterranean that are west of meridian 32°16'18"E. It is Turkey's well-considered position that the outer limits of the Turkish continental shelf in the above-mentioned maritime areas follow the median line between the Turkish and Egyptian coastlines. The western terminal point of the median line will be determined in accordance with the outcome of future delimitation agreements in the Aegean Sea and in the Mediterranean among all States concerned, taking into account all relevant and special circumstances.

Accordingly, Turkey, in written form, raised her objections to and her non-recognition of the agreement between the Greek Cypriot Administration and the Arab Republic of Egypt on the "delimitation of the exclusive economic zone" of 17 February 2003.

I would like to reiterate that several of the so-called hydrocarbon exploration and exploitation licence areas declared by the Greek Cypriots partly remain within Turkey's continental shelf. I would also like to draw your attention to the fact that, in the latest round of the "international tender" mentioned in the aforementioned letter, one of the tendered areas lies directly on the Turkish continental shelf.

I would furthermore like to remind you that the views of the representative of the Turkish Republic of Northern Cyprus on the allegations of the Greek Cypriot

Administration in the context of oil/natural gas exploration and exploitation activities have already been circulated to the General Assembly, on 19 December 2014 (see A/69/675-S/2014/915) and 5 June 2014 (see A/68/902).

In the light of the foregoing, Turkey refutes all the allegations contained in the letter of the Greek Cypriot representative.

I would be grateful if the present letter could be circulated as a document of the General Assembly, under agenda items 44 and 79 (a), and of the Security Council, and published in the next *Law of the Sea Bulletin*.

(*Signed*) Y. Halit **Çevik**
Permanent Representative